

1 **(May 28, 1996)**

2 **Differing Site Conditions (Changed Conditions)**

3 Section 1-04.7 is deleted in its entirety and replaced the following:

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5 During the progress of the work, if preexisting subsurface or latent physical
6 conditions are encountered at the site, differing materially from those indicated in
7 the contract, or if preexisting unknown physical conditions of an unusual nature,
8 differing materially from those ordinarily encountered and generally recognized as
9 inherent in the work provided for in the contract, are encountered at the site, the
10 party discovering such conditions shall promptly notify the other party in writing of
11 the specific differing site conditions before they are disturbed and before the
12 affected work is performed.

13
14 Upon written notification, the Engineer will investigate the conditions and if he/she
15 determines that the conditions materially differ and cause an increase or decrease
16 in the cost or time required for the performance of any work under the contract, an
17 adjustment, excluding loss of anticipated profits, will be made and the contract
18 modified in writing accordingly. The Engineer will notify the Contractor of his/her
19 determination whether or not an adjustment of the contract is warranted.

20
21 No contract adjustment which results in a benefit to the Contractor will be allowed
22 unless the Contractor has provided the required written notice.

23
24 The equitable adjustment will be by agreement with the Contractor. However, if
25 the parties are unable to agree, the Engineer will determine the amount of the
26 equitable adjustment in accordance with Section 1-09.4. Extensions of time will
27 be evaluated in accordance with Section 1-08.8.

28
29 If the Engineer determines that different site conditions do not exist and no
30 adjustment in costs or time is warranted, such determination shall be final as
31 provided in Section 1-05.1.

32
33 If there is a decrease in the costs or time required to perform the work, failure of
34 the Contractor to notify the Engineer of the differing site conditions shall not affect
35 the Contracting Agency's right to make an adjustment in the costs or time.

36
37 No claim by the Contractor shall be allowed unless the Contractor has followed
38 the procedures provided in Section 1-04.5 and 1-09.11.